

FILED 07-470-TC

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

CHARLES E. CHRISTOFERSON,

Petitioner,

Civil No. 07-470-TC

v.

FINDINGS AND
RECOMMENDATION
AND ORDER

CHARLES DANIELS,

Respondent.

COFFIN, Magistrate Judge.

Petitioner's Application to proceed in forma pauperis is allowed. However, for the reasons set forth below, petitioner's Petition (#2) should be denied without prejudice.

Petitioner, an inmate at FCI Sheridan, filed a petition pursuant to 28 U.S.C. § 2241 challenging his April 5, 1993,

sentence on drug convictions.

A federal prisoner challenging the legality of his federal conviction or sentence must file a motion to vacate sentence in the district of conviction pursuant to 28 U.S.C. § 2255. A federal prisoner challenging the *execution* of his sentence may file a petition under 28 U.S.C. § 2241.

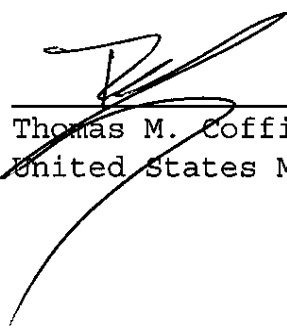
In this case, petitioner is challenging the legality of his sentence which was imposed in the United States District Court for the Northern District of Florida, Pensacola Division. Accordingly, a motion under 28 U.S.C. § 2255, filed in the Northern District of Florida, is the proper remedy for petitioner's claim.

Petitioner's Petition (#2) should be denied without prejudice to re-file in the District of his conviction. This proceeding should be dismissed. Petitioner's Motion for Appointment of Counsel (#4) is denied as moot.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have ten days from the date of service of a copy of this

recommendation within which to file specific written objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issue and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 13 day of April, 2007.



Thomas M. Coffin
United States Magistrate Judge